IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8413 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PETRON ENGINEERING CONSTRUCTION LTD.

Versus

UNION OF INDIA

Appearance:

MR MIHIR H JOSHI for Petitioner

MR AKSHAY H MEHTA for Respondent No. 1

MR ASIM J PANDYA for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE P.B.MAJMUDAR

Date of decision: 04/09/2000

ORAL JUDGEMENT: (Per B.C. Patel, J.)

Rule. Mr. Asim J. Pandya appears and waives service of rule on behalf of the respondents.

Learned Advocates requested the Court to take up the matter for final disposal.

Commissioner of Central Excise & Customs (Appeals) disposed of the stay application and hence, the present petition is preferred. It is submitted before us that there is a Circular, which was required to be taken into consideration by the Appellate Authority. It is submitted that in our order dated 31.7.2000, we have indicated that the documents were filed along with the appeal memo and those documents ought to have been taken into consideration. We are not expressing any opinion on the merits or demerits of the case as the learned counsel appearing for the Revenue fairly stated that this is an order which requires reconsideration. Under the circumstances, we quash and set aside the impugned order Annexure `C' dated 11.4.2000 and direct the Commissioner (Appeals) to dispose of the stay application afresh considering the Circular and the pleadings and documents produced.

Special Civil Application stands allowed accordingly. Rule is made absolute with no order as to costs.

4th September, 2000 (B.C. Patel, J.)

(P.B. Majmudar, J.)

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(apj)